93-1513

Supreme Court, U.S.
FILED
MAR 15 1993
OFFICE OF THE CLERK

No. _____

In The
Supreme Court of the United States
October Term, 1993

TINA REYNOLDS, DOREEN DETTORE, ROBERT NEWELL, KAREN EDGECOMB and DIANE NEWELL, as individuals,

Petitioners,

vs.

ANTHONY CONDIE, in his official capacity as Sheriff of LaSalle County, and LASALLE COUNTY, a body politic and corporate,

Respondents.

On Petition For Writ Of Certiorari
To The United States Court of Appeals
For The Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the Seventh Circuit Court of Appeals erred in naming deputy sheriffs as a class of government employee who may be discharged for political considerations, because said classification is unnecessarily overbroad and because said decision conflicts with another circuit of the United States Court of Appeals.

2. Whether a newly elected sheriff's revocation of vested employee benefits of a deputy sheriff, solely because said deputy sheriff campaigned for the new sheriff's political opponent, serves a compelling government interest and, thus, does not violate the deputy sheriff's rights under the First and Fourteenth Amendments to the United States Constitution.

PARTIES TO THE INSTANT ACTION

TINA REYNOLDS, DOREEN DETTORE, ROBERT NEWELL, KAREN EDGECOMB and DIANE NEWELL, as individuals,

Plaintiffs-Petitioners,

VS.

ANTHONY CONDIE, in his official capacity as Sheriff of LaSalle County, and LASALLE COUNTY, a body politic and corporate,

Defendants-Respondents.

TABLE OF CONTENTS

PAGE

QUESTIONS PRESENTED FOR REVIEW i

PARTIES TO THE INSTANT ACTION ii

TABLE OF CONTENTS iii

TABLE OF AUTHORITIES iv

LOWER REPORTS OF OPINIONS 2

STATEMENT OF JURISDICTION 2

CONSTITUTIONAL PROVISIONS INVOLVED . . 3

STATUTES INVOLVED 4

STATEMENT OF THE CASE 5

REASONS FOR GRANTING THE WRIT 10

CONCLUSION 26

APPENDIX A 1a

APPENDIX B 8a

APPENDIX C 10a

APPENDIX D 12a

APPENDIX E 13a

TABLE OF AUTHORITIES

PAGE

Branti v. Finkel, 445 U.S. 507 (1980) 13, 14

Elrod v. Burns, 427 U.S. 347 (1976) 12, 13, 14

Jones v. Dodson, 727 F.2d 1329 (4th Cir. 1984) 19, 20

Perry v. Sinderman, 408 U.S. 593 (1976) 11, 12

Rutan v. Republican Party of Illinois, 497 U.S. 1050 (1990). 23

Upton v. Thompson, 930 F.2d 1209 (7th Cir. 1991) . . . . . passim

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Respondents.

On Petition For Writ Of Certiorari
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For The Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully pray that a writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit affirming the dismissal of Petitioner's complaint by the United States District Court for the Northern District of Illinois, Eastern Division, (Holderman, J.)

LOWER REPORTS OF OPINIONS

The Order of the United States Court of Appeals for the Seventh Circuit (App. A, infra, 1a-7a) is unreported pursuant to Circuit Rule 53. The Order of the District Court for the Northern District of Illinois (Holderman, J.) (App. B, infra, 8a), is not reported.

STATEMENT OF JURISDICTION

Jurisdiction is proper pursuant to Supreme Court Rule 10(1)(a) and Rule 10(1)(c), as a United States Court of Appeals has rendered a decision in conflict with the decision of another United States Court of Appeals on the same matter and as a question of federal law in a way that conflicts with applicable decisions of this Court. The Federal question is based upon the First and Fourteenth Amendments of the United States

Constitution. Said Petition for Certiorari seeks review of an Order of the United States Court of Appeals for the Seventh Circuit, affirming the dismissal of this cause of action on November 2, 1992. Petitioners filed a Petition for Rehearing, with Suggestion for Rehearing en banc, with the Seventh Circuit Court of Appeals on November 30, 1992. Said Petition for Rehearing and Suggestion for Rehearing en banc were denied on December 14, 1992. This Petition for Writ of Certiorari is brought pursuant to United States Supreme Court Rules 10(1)(a) and 10(1)(c).

CONSTITUTIONAL PROVISIONS INVOLVED

AMENDMENT I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise of thereof; or abridging the freedom of

speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT IV. Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.

STATUTES INVOLVED

42 U.S.C. Section 1983

Every person who under color of any

statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . .

STATEMENT OF THE CASE

Petitioners are all Deputy Sheriffs employed by the LaSalle County, Illinois Sheriff's Department. Petitioner Robert Newell became a sworn deputy in December 1967. Petitioner Reynolds entered into employment with the department in October, 1975, and became a sworn Deputy in February, 1979. Petitioner Dettore became

a sworn Deputy in August, 1981. Petitioner Edgecomb and Diane Newell became a sworn Deputies in October, 1983. Petitioners all actively supported and campaigned for the incumbent LaSalle County, Illinois Sheriff Robert Wahl during the November, 1990 campaign for that office. Their support was widely known throughout the area. Respondent, Anthony Condie, was elected in November, 1990 as the Sheriff of LaSalle County, Illinois. Prior to the 1990 election, none of the Petitioners had been disciplined, reprimanded or otherwise notified of any deficiencies in the performance of their respective duties as LaSalle County Deputy Sheriffs. Soon after Petitioner Condie took office, Petitioners were notified that their duties would be changed to duties of lesser importance, though Petitioners were

to remain Deputy Sheriffs. Furthermore, Petitioners were notified that their salaries and accumulated seniority with the department would be reduced.

This action was filed on January 3, 1991, in the United States District Court for the Northern District of Illinois, Eastern Division. Jurisdiction was properly conferred upon the Federal Court by means of the Federal Questions involved, First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. Sections 1983, 1985, 1986 and 1988. On February 25, 1991, an Amended Complaint was filed. During the pretrial stages of this cause, the United States Court of Appeals for the Seventh Circuit was hearing a case entitled Thulen v. Bausman, (later decided and titled Upton v. Thompson, 930 F.2d 1209 (7th Cir. 1991), certiorari denied, 112 S.Ct. 1262, which

reviewed issues tangentially related to this case. At a pretrial status hearing, Petitioners represented that the Upton decision might affect the outcome of Petitioners' litigation. On May 24, 1991, the District Court dismissed the Petitioners' cause with leave to reinstate on or before June 14, 1991. The Court further noted that the dismissal would be without prejudice, unless the case were not reinstated on or before June 14, 1991. (App. D, 12a)

The Upton opinion was soon issued, and on June 14, 1991, Petitioners filed a Motion to Reinstate. On September 5, 1991 the Motion to Reinstate was granted. (App. E, 1a) At that time, Petitioners' attorney was ordered to appear and show cause why the case should not be dismissed with prejudice in light of the decision reached in Upton v. Thompson, 930 F.2d

1209 (7th Cir. 1991). On October 8, 1991, Petitioners filed an Amended Motion to Reinstate and an accompanying memorandum showing why the case should not be dismissed, and how Upton v. Thompson failed to legitimize Respondents' actions in this cause. Arguments were briefed, and on October 21, 1991, the District Court, Sua Sponte, dismissed Petitioners' case in its entirety, on the grounds that Upton v. Thompson, Id., operated to bar Petitioners' cause of action. (App. B, 8a) Petitioners appealed to the United States Court of Appeals for the Seventh Circuit on November 19, 1991. Jurisdiction of the Federal Court of Appeals was invoked by the federal question nature of the issue involved, namely the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. Section 1983, 1985, 1986, 1988.

The Seventh Circuit Court of Appeals affirmed the District Court's dismissal, on November 2, 1992, relying heavily upon the decision of Upton v. Thompson. Id. (App. A, 1a) Petitioners' Petition for Rehearing and Suggestion for Rehearing en banc were filed on November 30, 1992 and denied by the Seventh Circuit Court of Appeals on December 14, 1992. (App. C, 10a)

REASONS FOR GRANTING THE WRIT

With limited exceptions, the First Amendment precludes the denial of government benefits based solely upon the exercise of political expression. In the instant case, the action of Respondents operates to punish the Petitioners for exercising their First Amendment rights during the November, 1990 campaign for Sheriff of LaSalle County, Illinois. If

the Respondents' action is deemed permissible under the First Amendment, government employees will be forced to compromise their political beliefs for fear of losing salary, seniority and job satisfaction. Because Respondents' action constitutes a flagrant suppression of First Amendment rights, this Honorable Court should reverse the Seventh Circuit Court of Appeals and reinstate the Petitioners' cause of action.

It is well-settled that governmental benefits cannot be denied to individuals on the basis of expression of non-subversive political beliefs. This Court recognized that our democratic system is grossly impeded by patronage-based employment decisions. Perry v. Sinderman, 408 U.S. 593, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976). Consequently, this Honorable Court stated:

> For at least a quarter century, this court has made clear that even though a person has no 'right' to a governmental benefit and even though the government may deny him the benefit for any number of reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests--especially, his interest in freedom of speech.
>
> Id., at 597.

However, a series of cases have allowed the discharge of government employees under limited circumstances. This Court in Elrod v. Burns invalidated the politically motivated dismissals of deputy sheriffs by a Democratic sheriff, taken only because the deputies were Republicans. Elrod v. Burns, 427 U.S. 347, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976).

The Elrod plurality recognized that discharging government employees based on political affiliation may be allowed when a sufficiently compelling government interest is met. Id. at 367. The Court balanced the First Amendment with the government employer's legitimate need to ensure that their closest advisors and policymakers are politically loyal. Id. at 367-8. The plurality then concluded that the dismissal of those in "policymaking" and "confidential" positions could serve a compelling interest, and thus, be permissible. Id. at 367.

In Branti v. Finkel, this Court affirmed and expanded Elrod with a majority opinion. Branti v. Finkel, 445 U.S. 507, 100 S.Ct. 1287, 63 L.Ed.2d 574 (1980). In Branti, a Democratic public defender was prohibited from firing a

Republican assistant public defender for his political beliefs. Id. However, the Branti Court held that a government employer may discharge an employee, if the employer can demonstrate that party affiliation is an appropriate requirement for the effective performance of the public office involved. Id., at 521, 1296.

As such, the legitimate purposes for which a government employee may be discharged are well-settled. The Constitution tolerates the discharge of a core group of advisors, policymakers and those employees whose political loyalty is essential to the proper execution of the employee's duties. Elrod v. Burns, 427 U.S. 347, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976); Branti v. Finkel, 445 U.S. 507, 100 S.Ct. 1287, 63 L.Ed.2d 574 (1980). Given the tenor of the aforementioned

tests, subsequent cases have necessarily been adjudicated on an ad hoc basis. In the instant case, the Court must determine whether a Deputy Sheriff's job classification fits within the core group for which patronage decisions are allowed. The Court must also decide whether the protected acts of discharging, layoff and refusal to hire includes the acts of imposing less desirable duties upon an employee, reducing salary benefits and revoking seniority.

There is little question that the instant Respondents' actions were nothing more than calculated punishment for the active support given to Respondent Condie's opponent in the November, 1990 general election for Sheriff of LaSalle County, Illinois. An examination of the events that transpired on or around the time Respondent Condie took office makes

this point overwhelmingly clear.

Prior to the 1990 campaign, each Petitioner enjoyed the status of Deputy Sheriff, and made a salary appropriate for his level of seniority with the department. Each Petitioner flourished in his/her respective position, and enjoyed virtually unblemished records. Following the 1990 campaign, however, changes began to rapidly occur. The incumbent sheriff, Robert "Pete" Wahl was defeated by Respondent Anthony Condie. Almost immediately following Condie's taking of oath as Sheriff, Respondent Condie moved each of the Petitioners from the jobs they were performing into less desirable positions, while still maintaining them as Deputy Sheriffs. For example, Petitioner Robert Newell, who had spent numerous years in the position of Chief Deputy, was removed and reassigned to the duties of

jailer. Included in this transfer was an accompanying cut in pay and a decrease in his level of accumulated seniority.

For the other Petitioners herein, similar treatment occurred. For Petitioner Tina Reynolds, this retribution translated into an approximate $4,000.00 per year cut in salary, in addition to a significant reduction in accumulated seniority. Given the tenor of existing law governing this issue, Respondents' actions can only be categorized as blatant retaliation against Petitioners for vigorously exercising their political beliefs. It is this type of stifling of political activity that the First Amendment will not countenance.

What is left is the arbitrary and capricious revocation of vested employee benefits, such as seniority and salary, based solely on the exercise of First

Amendment beliefs. It is obvious that such action on the part of Respondents will serve to stifle First Amendment political expression in the future. Notwithstanding, the implications of legitimizing the Respondents' acts in this cause of action, the District Court dismissed the instant action and the United States Court of Appeals for the Seventh Circuit affirmed the dismissal. Both Courts relied, almost exclusively, upon the opinion in Upton v. Thompson, 930 F.2d 1209, (7th Cir. 1991).

The Upton court held that Deputy Sheriffs operate with a sufficient level of autonomy and discretionary authority to justify a sheriff's use of political considerations when determining who will serve as deputies. Id. at 1218. However, Upton does not serve to bring Respondent Condie's actions within the parameters of

the First Amendment for two reasons.

First, the Upton holding is erroneous as it conflicts with decisions of other circuits. The Upton court acknowledged that circuits are split on the issue of whether a Deputy Sheriff is protected by the First Amendment from patronage firing. Id. at 1217. The Upton court cites the Fourth Circuit which, when applying the Branti test, did not find that a Deputy Sheriff:

> could be found to involve policymaking related to 'partisan interests' and to involve access to confidential information bearing . . . on partisan political concerns . . . no matter what size the office, or the specific position of power involved, or the customary intimacy of the associations within the office, or the undoubted need for mutual trust and confidence within any

> law enforcement agency. Id. at 1217, citing Jones v. Dodson, 727 F.2d 1329 (4th Cir. 1984).

Thus, the Fourth Circuit held that discharge of a deputy sheriff based on political affiliation was not justified as a matter of law. Jones v. Dodson, at 1338 However, the Fourth Circuit hinted that discharge based on political activity, rather than affiliation, may not be unjustified as a matter of law. Though the Jones opinion is open-ended on the direct issue, whether a deputy may be discharged for political activity, the Jones rationale is solid. Deputy Sheriffs do not decide policy or involve confidential information of partisan political concerns. A deputy's duties in enforcing the existing law will be essentially the same, regardless of the political affiliation of the sheriff.

The Seventh Circuit itself impliedly admits as much in its Order dismissing the instant case. (Attached as Appendix A) Thulen v. Bausman held that deputy sheriffs, as a class, operate with autonomy and authority in carrying out the mandate of the newly elected sheriff, justifying politically based dismissal. Thulen v. Bausman, 930 F.2d 1209, 1218 (7th Cir. 1991). The Seventh Circuit's Affirmance of the Dismissal of the instant case, impliedly contradicts the Thulen decision which it relies upon in its Order. By allowing the Respondents to assign less desireable duties to deputy sheriffs of opposing political beliefs, the Seventh Circuit impliedly admits that deputy sheriffs who are assigned to certain tasks do not effect the sheriff's mandate from the people. Therefore, deputy sheriffs, as a class, do not all

have a sufficient level of autonomy and discretionary authority to justify politically based discharging. For this reasons, this Honorable Court should reverse the Seventh Circuit, by holding that a Deputy Sheriff is not a classification of government employees for whom political considerations may be used when determining who will serve as Deputies.

Additionally, Upton v. Thompson is inapplicable to the case at bar. The Upton holding is that:

> deputy sheriffs operate with a sufficient level of autonomy and discretionary authority to justify a sheriff's use of political considerations when determining who will serve as deputies.

Upton at 1218.

Respondent Condie has not discharged the

Petitioners. Instead Respondent Condie has assigned Petitioners to less desirable duties, has reduced petitioners' salaries and has reduced Petitioners' accumulated seniority and benefits. The holding of Upton is expressly limited to discharges of deputy sheriffs. Upton at 1218. The Respondents have contended in prior briefs that the Upton holding includes promotion, transfer, recall and hiring decisions, as stated in Rutan v. Republican Party of Illinois, 497 U.S. 1050 (1990). However, Rutan is cited in Upton only to support the Seventh Circuit's proposition that Rutan has complicated the issue of patronage discharges, by including all personnel actions. Upton at 1217-8. Notwithstanding the expansion by this Court in Rutan, the Upton court limited its holding to discharges. Upton, at 1218. Perhaps the Upton Court

contemplated that actions short of discharge would not satisfy a vital government interest, as stated supra. Nevertheless, the Seventh Circuit expanded the express holding of Upton to allow politically based action which serves no compelling government purpose.

The Seventh Circuit's unpublished order stated that it would be curious constitutional law to require the government to chase the most drastic means of achieving its interest [firing]. (Order of November 2, 1992). However, actions short of firing do not remove employees who will not effectively carry out a newly elected official's mandate. The instant Petitioners all remain deputy sheriffs. Despite the Upton holding that deputy sheriffs are in a position to make a newly elected sheriff's attempt to implement his mandate from the people less

effective, there have been no complaints concerning the instant Petitioners' job performances. The Petitioners never posed a threat to the effective performance of Sheriff Condie's public mandate. Furthermore, by keeping the Petitioners in their capacity as deputy sheriffs, no possible compelling government interest could have been met by the actions taken against the Petitioners.

The dismissal in the instant case was by the District Court on its own Motion, with no responsive pleading, and deprives the plaintiffs of their day in court. The action of the United States District Court in expanding Upton, Id., to include the right to assign demeaning duties to deputy sheriffs because of their political activity, or inactivity regarding the prevailing sheriff's election campaign, resulted in the dismissal of Petitioner's

lawsuit. Additionally, the United States District Court's action compounds the police state activity of the sheriff by depriving the parties of their right to discovery, pleading and trial on the merits. The District Court's action was contrary to its own Order and of the Federal Rules of Civil Procedure, Union Agreements and Illinois Statutes. These factual matters were never allowed to be placed into evidence, no trial was had and no answer to the complaint was ever entered.

CONCLUSION

For the foregoing reasons, the Petition for Writ of Certiorari should be granted.

Respectfully Submitted,

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APPENDIX A

UNITED STATES COURT OF APPEALS
for the Seventh Circuit
Chicago, Illinois 60604

Argued September 23, 1992

November 2, 1992

Before

Hon. Walter J. Cummings, Circuit Judge
Hon. Joel M. Flaum, Circuit Judge
Hon. Michael S. Kanne, Circuit Judge

No. 91-3664
TINA REYNOLDS, DOREEN DETTORE, ROBERT NEWELL, KAREN EDGECOMB and DIANE NEWELL, as individuals,
Plaintiff-Appellants,
vs.
ANTHONY CONDIE, in his official capacity as Sheriff of LaSalle County,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 91 C 3 - **James F. Holderman,** Judge

ORDER

In their amended complaint, five deputy sheriffs employed by the LaSalle

County, Illinois, Sheriffs Department sued Anthony Condie, who was elected Sheriff in November 1990 and took office on December 3, 1990. The plaintiffs actively supported and campaigned for defendant's opponent in the November 1990 general election. After his election, defendant advised plaintiffs that effective December 31, 1990, they would receive lesser duties and lower salaries. These actions of defendant were stated to violate the First and Fourteenth Amendments and 42 U.S.C. Sections 1983, 1985, 1986 and 1988. Therefore plaintiffs sought an injunction enjoining defendant from changing their duties and salaries. The district court dismissed the action on the ground that defendant has qualified immunity under Thulen v. Bausman, 930 F.2d 1209 (7th Cir. 1991), cert. denied, 112 S. Ct. 1262. We

agree and therefore affirm.

In Thulen we held that a newly elected sheriff may use political considerations when determining who will serve as deputy sheriff and therefore awarded him qualified immunity for firing his predecessor's chief deputy. This Court explained "that a deputy sheriff helps to implement his superior's policies to the same degree as an assistant prosecutor or a deputy city commissioner, making [sheriff's] deputies suitable for similar treatment under the First Amendment." 930 F.2d at 1215.

The Thulen opinion pointed out that as in this case, the Sheriff is elected by the voters in a county to serve the public at large and that his selection is based on popular approval of his expressed political agenda. We noted that he has

"broad discretion to set whatever policies he or she believes necessary to protect the interest of that society," quoting from Livas v. Petka, 711 F.2d 798, 800 (7th Cir. 1983).

The Thulen opinion amplified this observation as follows:

> Particularly in a small department, a Sheriff's core group of advisers will likely include his deputies. A deputy sheriff, in implementing the Sheriff's basic policy, will "make some decisions that will actually create policy." Id. at 801. As with the assistant deputy prosecutor in Livas, deputies on patrol or other assignment frequently work autonomously, giving them wide latitude and discretion in the performance of their duties and in the implementation of department goals. In order to promote public confidence in law enforcement, the Sheriff depends on his deputies to publicly project his competence and the competence of the office. Deputies are also expected to provide the Sheriff with truthful, accurate and beneficial information which he needs to make decisions and administer his office. While the circumstances of Sheriff departments do not present an employment situation identical to a prosecutor's office, or that of a city water

> commissioner's, the position of these deputy sheriffs seems to fit within the Branti, Tomczak, and Livas exceptions to prohibition on patronage firings, eroding any belief that the deputies' right to be free from political firing had been "clearly established."

930 F.2d at 1215.

The Thulen opinion also noted that a sheriff's political survival depends on his deputies' job performance, so that he could believe that party loyalty was an appropriate consideration for a deputy sheriff. Therefore we held that a newly elected sheriff would be entitled to discharge a chief deputy, thus following Terry v. Cook, 866 F.2d 373 (11th Cir. 1989).

As in Livas and Thulen, we concluded that political considerations can be an appropriate requirement for the effective performance of the deputy sheriff's duties. Deputy sheriffs operate with a

sufficient level of autonomy and discretionary authority to justify a sheriff's use of political considerations when determining how they should serve. See Thulen, 930 F.2d at 1218. This is so because the country government has a compelling interest in carrying out the mandates of its newly elected sheriff. The present case is not as extreme as Thulen or Terry because these deputies have not been dismissed but have been assigned lesser duties and salaries.*[1] Contrary to Plaintiff's arguments, however, the government's interest in carrying out the new sheriff's mandate does not evaporate merely because the

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* Not until oral argument here did plaintiffs mention that some of plaintiffs' seniority was affected. This assertion should have been made in the amended complaint and comes much too late for consideration here.

plaintiffs remain on the job with nominal titles of "deputy sheriff." The interest remains; only the government's means of effecting that means of effecting that interest is at issue. All agree that the county could fire the plaintiff deputy sheriffs. Can the county instead demote the deputies to peripheral positions with less significant responsibility? We think the answer is obvious. It would be curious constitutional law indeed to hold that the government must chose the most drastic and intrusive means of achieving its interest in an efficient sheriff's department.

We hold that Judge Holderman was justified in applying Thulen to this case, so that dismissal of the action was appropriate.

Judgment affirmed.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

TINA REYNOLDS, et al
PLaintiffs
V.
ANTHONY CONDIE, et al
Defendants

JUDGMENT IN A CIVIL CASE
CASE NUMBER: 91 C 3

___ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

_X_ Decision by Court. This action came to hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that plaintiff's amended motion to reinstate is denied and this cause of action is dismissed in its entirety.

There being no just reason for delay, this is a final and appealable order.

Oct. 21, 1991
Date

H. Stuart Cunningham
Clerk

_____
(By) Deputy Clerk

APPENDIX C

UNITED STATES COURT OF APPEALS
for the Seventh Circuit
Chicago, Illinois 60604

Argued September 23, 1992

December 14, 1992

Before

Hon. Walter J. Cummings, Circuit Judge
Hon. Joel M. Flaum, Circuit Judge
Hon. Michael S. Kanne, Circuit Judge

No. 91-3664
TINA REYNOLDS, DOREEN DETTORE, ROBERT NEWELL, KAREN EDGECOMB and DIANE NEWELL, as individuals,
Plaintiff-Appellants,
vs.
ANTHONY CONDIE, in his official capacity as Sheriff of LaSalle County,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 91 C 3 - **James F. Holderman,** Judge

ORDER

On consideration of petition for rehearing with suggestion for rehearing en

banc filed by plaintiffs-appellants on November 30, 1992, no judge in active service has requested a vote thereon, and all of the judges on the original panel have voted to deny a rehearing. Accordingly,

IT IS ORDERED that the aforesaid petition for rehearing be, and the same is hereby, DENIED.

APPENDIX D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Assigned Judge or Magistrate. JAMES F. HOLDERMAN
Case Number. 91 C 3
Date. May 24, 1991
Case Title. Tina Reynolds V. Anthony Condie
Motion. Status
Docket Entry:

_X_ Judgment is entered as follows:

This cause of action is dismissed with leave to reinstate on or before June 14, 1991. If not reinstated dismissal will be with prejudice without further order of court.

APPENDIX E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Assigned Judge or Magistrate. JAMES F. HOLDERMAN
Case Number. 91 C 3
Date. Sept. 5, 1991
Case Title. Tina Reynolds V. Anthony Condie
Motion. Reinstate

(. . .)

(5) X Status Hearing X held X continued to 21 Oct 91 at 10 am

(. . .)

(10) X [other docket entry]

Plaintiff's motion to reinstate is granted and this cause is reopened. Discovery completion date is Oct. 7, 1991.